

REMARKS

The Examiner is thanked for the care and detail provided in the Office Action dated November 8, 2000, which has been considered by applicant. The case originally contained nine (9) claims, including one independent claim. After this amendment, three claims (1, 2 and 4) remain in the case. In specific, applicant has amended claim 1 to contain the limitations set forth in claim 3, and amended the dependency of claim 4 to depend from claim 1, in recognition of the Examiner's indication of potentially allowable claims set forth on page 9 of the Office Action. Applicant has also sought to obviate and/or satisfy the other objections and rejections, as discussed in greater detail below. No new matter has been added. Reconsideration and a Notice of Allowance are respectfully sought in light of the amendments and remarks contained herein.

In the Office Action, the Examiner first objects to the Declaration as defective in allegedly failing to state whether the inventor is a sole or joint inventor of the invention claimed. In response thereto, applicant herewith encloses a duly executed Declaration and Power of Attorney which recites the language that he believes himself to be the "original, first and sole inventor," and acknowledges the application by application number and filing date. Accordingly, it is respectfully submitted that the Declaration is in full compliance with 37 C.F.R. § 1.67(a) and M.P.E.P. §§ 602.01 and 602.02, and that this objection should be deemed satisfied.

In the Office Action, the Examiner next objects to applicant's reference to art in the specification contending that an Information Disclosure Statement must be provided for the Examiner to consider the references cited. Applicant respectfully declines such request and, in response thereto, respectfully submits that inclusion of art in the specification under

Background of the Invention is a traditional mechanism for explaining such background to one of ordinary skill in the art and under 37 C.F.R. § 1.56, and does not itself create a duty on the part of the applicant to submit an Independent Disclosure Statement. Applicant notes with appreciation the Examiner's quotation to the language "[t]o comply with this requirement, the list may not be incorporated into the specification but must be submitted in a separate paper." M.P.E.P. § 609 A(1) (page 600-100). However, the antecedent "this" in the quoted portion refers to the submission of an Information Disclosure Statement under 37 C.F.R. §§ 1.97 and 1.98 on form PTO-1449. It does not create a duty under 37 C.F.R. § 1.56, nor under any other rule or regulation, nor does it mean that in every instance in which background art is cited as background of the invention for the edification of one of ordinary skill in the art, there is an automatic requirement triggered need to supply an Information Disclosure Statement. Lastly, applicant notes that the M.P.E.P. does not carry the force of law, and that there is no requirement proffered by the Examiner found in the statute (35 U.S.C.) or the regulations promulgated thereunder (37 C.F.R.). The reason is clear, it is submitted: an Information Disclosure Statement is an option, not a requirement, and an inventor may discharge his duty under 37 C.F.R. § 1.56 in other ways, including by description in the specification. Accordingly, applicant respectfully requests that the objection be deemed traversed.

The Examiner's objections to the Abstract have been noted, and a new abstract provided which, it is believed, fully satisfies the mandates of M.P.E.P. § 608.01(b).

With respect to the Examiner's objections to the drawings, applicant has amended the same as indicated, and respectfully submits that such amendments fully satisfy such objections.

Likewise, the objections to the specification have been carefully considered, and amendments made to obviate the objections provided. Moreover, the stop portion as set forth

in the claims and visible in FIG. 3 have been identified and described, thereby providing the necessary antecedent basis for the claimed subject matter, in compliance with 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01(o).

The Examiner rejected claims 1-9 under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. In response thereto, applicant has corrected the typographical error indicating "said clipping members" to indicate "said clipping member" in the singular, and has amended the claims to indicate the capacity for attachment of the claimed sheet to a second, identical sheet. Such capability does not claim the combination of two sheets, but rather the capacity to be so combined as functional elements of the claim scope. Accordingly, it is respectfully submitted that the rejection under 35 U.S.C. § 112, second paragraph has been met, and should be withdrawn in light of the amendments hereto.

The Examiner's citation to the art have been considered and are appreciated. In light of the fact that the claims have been amended to conform in scope to that which the Examiner has indicated is allowable, no further discussion need be provided in connection with such cited art. It should be noted that the Examiner's recognition that certain language, like "weldedly, flexibly attached," are "given little (if any) patentable weight" and hence such language has been deleted from the amended claims.

Applicant has further considered the prior art made of record and not relied upon, and has determined that this art does not teach or suggest the combination as claimed in the amended claims set forth herein.

Accordingly, it is respectfully submitted that the case is now in condition for allowance, and a Notice of Allowance is respectfully sought. Should the Examiner determine

that further action is required, it is respectfully requested that he first call undersigned counsel for applicants before issuing another Office Action.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE²

In the Specification

The Abstract has been amended as follows:

--An interlocking rectangular sheet of simulated shakes for lock-up assembly upon a structure in an upwardly directed fashion ~~is shown~~ having a thermo-formed base sheet with an exposure surface and a top and bottom surface. The bottom surface terminates in a cross-sectionally "U" shaped, clipping member. The top surface has a plurality of punched key portions ~~displaced. Certain, certain~~ of the key portions ~~have independent, which having~~ apertured, flanged, ~~extruded assemblies that are welded to them~~ thereon. All of the key portions allow for receiving securing members for attachment of the sheet to the structure, including the flanged portions. The apertured, flanged assemblies and the clipping members cooperate positively to interconnect in the upwardly directed fashion to provide, when secured to the structure by the securing members, a substantial inability to be removed or displaced by weather conditions. The flanged assemblies have an extended "S" shaped configuration. The front and back of each of the sheets have an upward and lower notched portion that provides for longitudinal engagement, one sheet against the other, by way of the front portion engaging the flange, and the rear portion engaging the "U" shaped clip.--

²Strikeouts refer to deleted portions, and underlines to inserted portions.

The fifth paragraph (beginning with the words "FIG.'s 4") on page 10 has been amended as follows:

~~--FIG.'s 4 are a multiview of the process of formation of a shake in accordance with the invention, wherein FIG. 4A shows a frontal view of a sheet prior to attachment of a clipping assembly;--~~

FIG. 4B is a cross-sectional view along line B-B shown in FIG. 4A;

FIG. 4C is a frontal view of a clipping assembly prior to its engagement on the sheet shown in FIG. 4A; and

FIG. 4D is a partial cross-sectional view along line D-D of FIG. 4A;--

The last paragraph of page 10 has been amended as follows:

At page 10, replace the last paragraph with the following:

--FIG. 6B is a cross-sectional view along line 6Bb-6Bb in FIG. 2; and--

Full paragraph 2 on page 13 has been amended as follows:

--Critical to the subject invention are the proliferation of nailing slots 8a and 8b which are equally and continually spaced parallel to the top edge 4, as shown in FIG. 1. Nailing slots 8a are of stretched elliptical configuration to allow the placement of a nail anywhere within the slot. It should be appreciated that this slot also provides the ability to screw or staple the sheet to the underlying backing surface. Slots 8Aa and 8Bb are 1 inch in length, and about 3/8 inches in height, with a 4 inch center to center distance between them.--

Full paragraph 3 on page 13 has been amended as follows:

-- Importantly, slots 8B_b have sonically welded about them a clipping flange 12. The process for keying to the slots and engaging and welding flanges 12 are described in greater detail in connection with FIG. 4A, FIG. 4B, FIG. 4C, and FIG. 4D. It should be observed that the sheet 2 can be nailed at each of slots 8A_a and 8B_b, displaced every four inches, which ensures that regardless of where an edge falls, it can be secured to the surface and thereby prevent the opportunity for wind damage at such corners or edges. --

Full paragraph 4 on page 13 bridging to page 14 has been amended as follows:

--Like FIG. 1, FIG. 2 shows a similar embodiment, in which sheet 2 is comprised of a “perfection” wood shake surface 26. Importantly, the wood shake surface 26 is configured to truly reflect a wood shake surface, in that it comprises shakes of different heights and widths as shown by 24A_a and 24B_b. As a result, the distance between the shakes varies between 22A of 1/8 inch, 22b of 1/4 inch and 22C_c of 3/8 inches. It should be appreciated that other variations can be employed to simulate a real wood effect. The dimensions of this sheet are the same as that shown in FIG. 1, and like elements possess like identifying numbers. --

Full paragraph 1 on page 14 has been amended as follows:

--FIG. 3 shows a rear edge 18 and forward edge 14 with notches 16 and 20 in a manner that provides positive, longitudinal interlocking between two sheets, along the direction of arrow 28. In this embodiment, notch 16 abuts flanged clipped assembly 42 perpendicular to the top edge 4, while simultaneously notch 20 slidably engages in the lower clip 44. Stops 16a and 20a as shown provide for termination of the slidable engagement while

maintaining the proper distance between the panels. Clip 44 is shown in greater detail in FIG. 4B. In this manner, the two sheets connect without interruption and appear to be continuous on the wall. The spacing is established to enable the continued four inch centers between nailing slots 8Aa and 8Bb. Spacing 22 (as well as 22Aa, 22Bb and 22c for a wood shake) are also thereby maintained with a margin of 1/16 inch in order to provide expansion and contraction occasioned by thermal changes.--

Full paragraph 2 on page 14 has been amended as follows:

--~~FIG. 4 shows a composite of~~4A, FIG.'s 4A, 4B, FIG. 4C and FIG. 4D, ~~revealing~~ reveal the stages in development of the final sheet. In this regard, the sheet 2 is first extruded, then molded to the conformation shown in FIG. 4A, in which keys 32Aa and 32Bb are provided as raised protrusions that allow accurate location of each of flanged assemblies 42. Flanged assemblies 42 comprise apertures 34 which are the same size as the protruding keys 32Aa and 32Bb, so that assemblies 42 can be placed thereupon and then sonically welded to the surface 30 ~~(along the dotted lines shown bridging FIG.'s 4C and 4A).~~ --

Full paragraph 3 on page 14 bridging to page 15 has been amended as follows:

--Generally the material used for all of these assemblies has a thickness of 50-53 gauge. Fig. 4B shows a cross section along line B-B of Fig. 4A, in which protrusion 32Aa is shown outwardly directed from surface 30, and surface 30Aa, comprising the front of the scallop to the bottom edge 6 is shown. It should be appreciated that any of the number of other shake appearances can be used with the configurations shown in ~~FIG.'s 4~~ FIG. 4A, FIG. 4B, FIG. 4C and FIG. 4D without deviating from the invention.--

Full paragraph 1 on page 15 has been amended as follows:

--As further shown in FIG. 4B, the sheet 2 is continuous from its top edge 4, through the nailing key 32a, through surface 30, through scallop 30Aa, to bottom edge 6, and extends thereafter to form rearward clip 44. This clip 44, as described in greater detail below, mates with flange 12 for positive latitudinal interlocking of the sheets as they are attached in the lock up engagement.--

Full paragraph 2 on page 15 has been amended as follows:

--As shown in FIG. 4D, which is a cross-section along line D-D shown in FIG. 4A with a flanged clip assembly 42 attached thereto, flanged assembly 42 has nailing key 32b passed through its aperture 34, and sonically welded thereupon. Flange 12 is downwardly directed in an "S" type configuration having a first portion 12Aa which resides parallel to surface 30, then to an angular deformation 12Bb, to another parallel extension 12Cc, to a final angular deformation 12Dd. In this manner, flange 12 creates an opening that is larger in size than the final width, in which the clip 44 is passed for clipped attachment.--

Full paragraph 3 on page 15 has been amended as follows:

--In ~~all of~~ FIG. 4B and FIG. 4D, nailing keys 32Aa and 32Bb are shown. After the sonic welding of flanged assemblies 42 to ~~about~~ respective keys 32Bb to surface 30, the nailing keys 32Aa and 32Bb are then punched by the sonic welder, and removed, leaving apertures 8Aa and 8Bb, as shown in FIG. 1 and FIG. 2, for nailing. --

Full paragraph 4 on page 15 bridging to page 16 has been amended as follows:

--FIG. 4C shows an individual flanged ~~assemblies~~ assembly 42 for engagement.

Alternatively, and in accordance with a present preferred embodiment, an array of two assemblies can be provided coextensively with one another as shown by the continuous dual clip assembly 36 in FIG. 5A. In this manner, two flanged assemblies 42 are connected to one another such that flanges 12 are of the same dimension as that shown in FIG.'s 4C. The length of this assembly 36 is preferably between 21.5 inches and 27.5 inches, still leaving the four inch centers for attachment to the nailing keys 32Aa and 32Bb.--

Full paragraph 3 on page 16 has been amended as follows:

--FIG.'s 6A and FIG. 6B show cross-sections along line 6A-6A of FIG. 1 and line 6Bb-6Bb of FIG. 2, for each of the decorative panel and shake panel embodiments, respectively. In this regard, apertures 8Bb are shown for nailing, indicating that the sonic removal step of the keys 32Bb has already occurred. In these cross-sectional representations, clip assembly 42 is shown, as well as the lower clip assembly 44. Surfaces 30A and 30B are shown, and back walls 46A and 46B are also shown. It should be recognized that these back walls are produced by the molding of the spaces 22 and 22Aa, 22Bb and 22Cc, thereby leaving a lesser gap for clip 44 than that shown in FIG. 4B. Because of the spacing, where independent clip assemblies 42 are used, the flange 12 will not engage at the cross-sections shown in FIG.'s 6A and FIG. 6B, but rather engage the cross-sectional area shown in FIG. 4B (between the spaces 22, 22Aa, 22Bb, and 22Cc).--

Full paragraph 4 on page 16 bridging to page 17 has been amended as follows:

--Engagement between clips 44 and flanged assemblies 42 are shown in FIG. 7, which indicates the manner by which clip 44 is slidably mounted within the recesses created by flange 12. The initial extension provided by the final angular deformation 12D_d creates a larger aperture for more easily engaging the clip 44. Likewise, angular deformation 12B_b creates a distance "D" between second parallel extension 12C_c and surface 30 just slightly greater than the thickness of clip 44, thereby frictionally and compressionally engaging the clip 44, as shown in FIG. 7. In this manner, ease of assembly, with positive latitudinal interlocking is achieved.--

In the Drawings

FIG. 1 has been amended, as shown, to reflect cross-section 6A to 6A.

FIG. 2 has been amended, as shown, to reflect cross-section 6b to 6b.

FIG. 3 has been amended, as shown, to show stops 16a and 20a.

FIG. 4A has been amended, as shown, to show cross sections B to B and D to D, eliminating reference to "FIG. 4," eliminating connectivity to FIG. 4c, and placing it on a separate page.

FIG. 4B has been amended, as shown, by placing it on a separate page.

FIG. 4C has been amended, as shown, by placing it on a separate page.

FIG. 4D has been amended, as shown, by placing it on a separate page.

FIG. 6A and FIG. 6B have been amended, as shown, by changing the word "PANAL" to "PANEL."

FIG. 7 has been amended, as shown, to conform lettering.

In the Claims

Claim 1 has been amended as follows:

--1. (Amended) An interlocking rectangular sheet of simulated shakes for lock-up assembly upon a structure in an upwardly directed fashion, the sheet having a top and a bottom location, the top location at a level higher than the bottom location, comprising:

- (a) a thermo-formed base sheet having an exposure surface;
- (b) a cross-sectionally "U" shaped, clipping member configured substantially along the bottom location of the sheet and below said exposure surface;
- (c) a plurality of punched key portions displaced along the top location of the sheet and above said exposure surface;
- (d) a plurality of ~~independent~~, apertured, flanged, ~~extruded~~ assemblies ~~weldedly, flexibly attached~~ located about less than all of said punched key portions, such that all of said apertures on said flanged assemblies and all of said punched key portions that lack, said flanged assemblies, provide locations for receiving securing members for attachment of the sheet to the structure; ~~and~~
- (e) such that said apertured flanged assemblies and said clipping ~~members~~ member cooperate positively to interconnect in the upwardly directed fashion to provide, when secured to the structure by the securing members, a substantial inability to be removed or displaced by weather conditions; and
- (f) wherein said base sheet further comprises a front portion and a back portion that are substantially perpendicular to the top and bottom locations, and said front portion has a top notch proximate to the top location, and said back portion has a bottom notch proximate to the bottom location, such that said sheet is capable of secured, interlocking,

longitudinal attachment to a second identical sheet by said top notch of said sheet overlapping the top surface and slidably engaging one of said flanged assemblies of said second sheet, and said bottom notch of said sheet underlapping said "U" shaped clipping member of said second sheet for slidable engagement into the "U" portion thereof. --

Claims 3 and 5 through 9 have been canceled, without prejudice.

Claim 4 has been amended as follows:

--4. (Amended) The sheet of claim 31, where the top notch of said sheet ~~possess~~ possesses a stop portion that ~~abuts~~ is capable of abutting said one of said flanged assemblies of said second sheet ~~when said first and second sheets are secured to one another.--~~

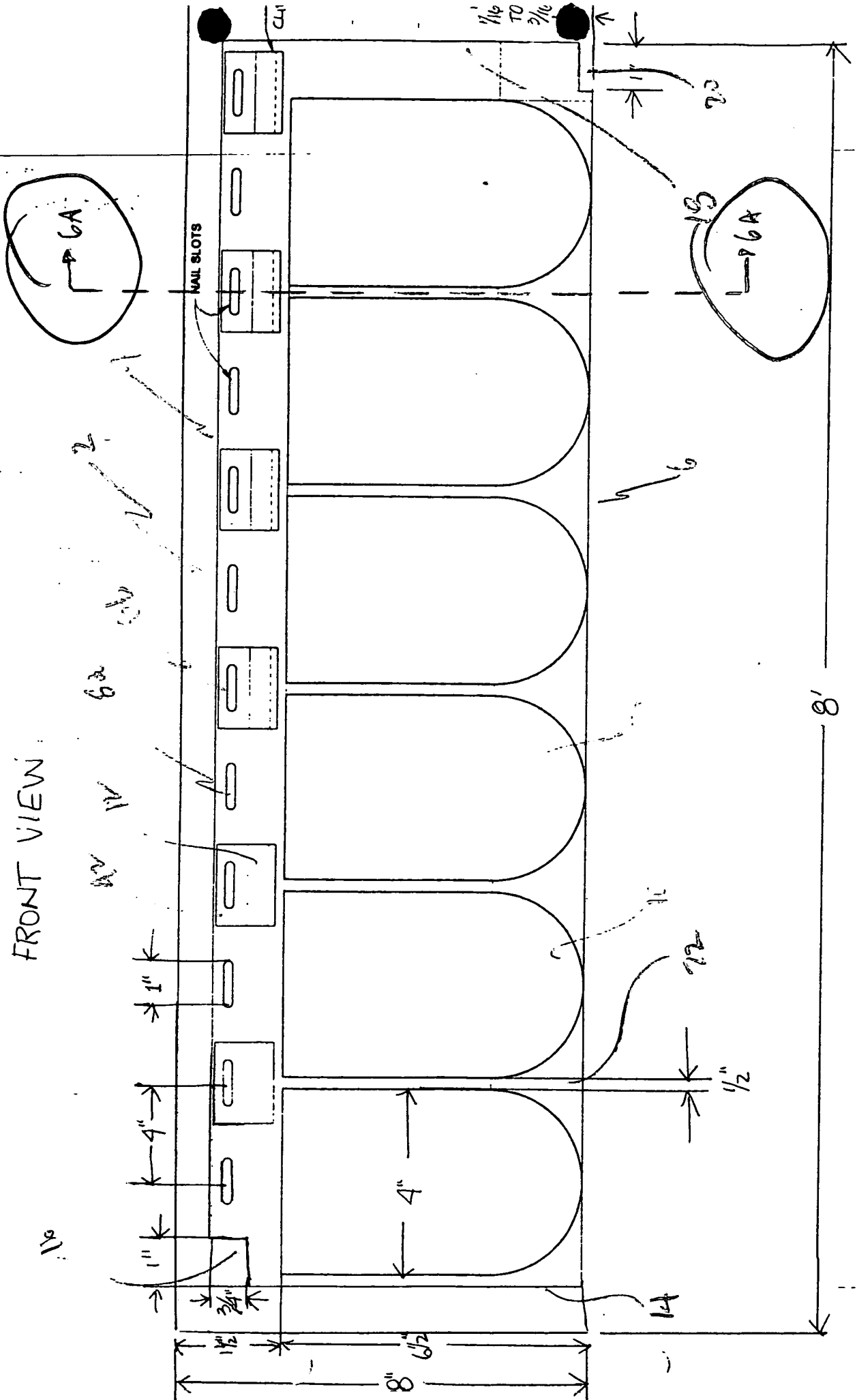
#3
3/21/01



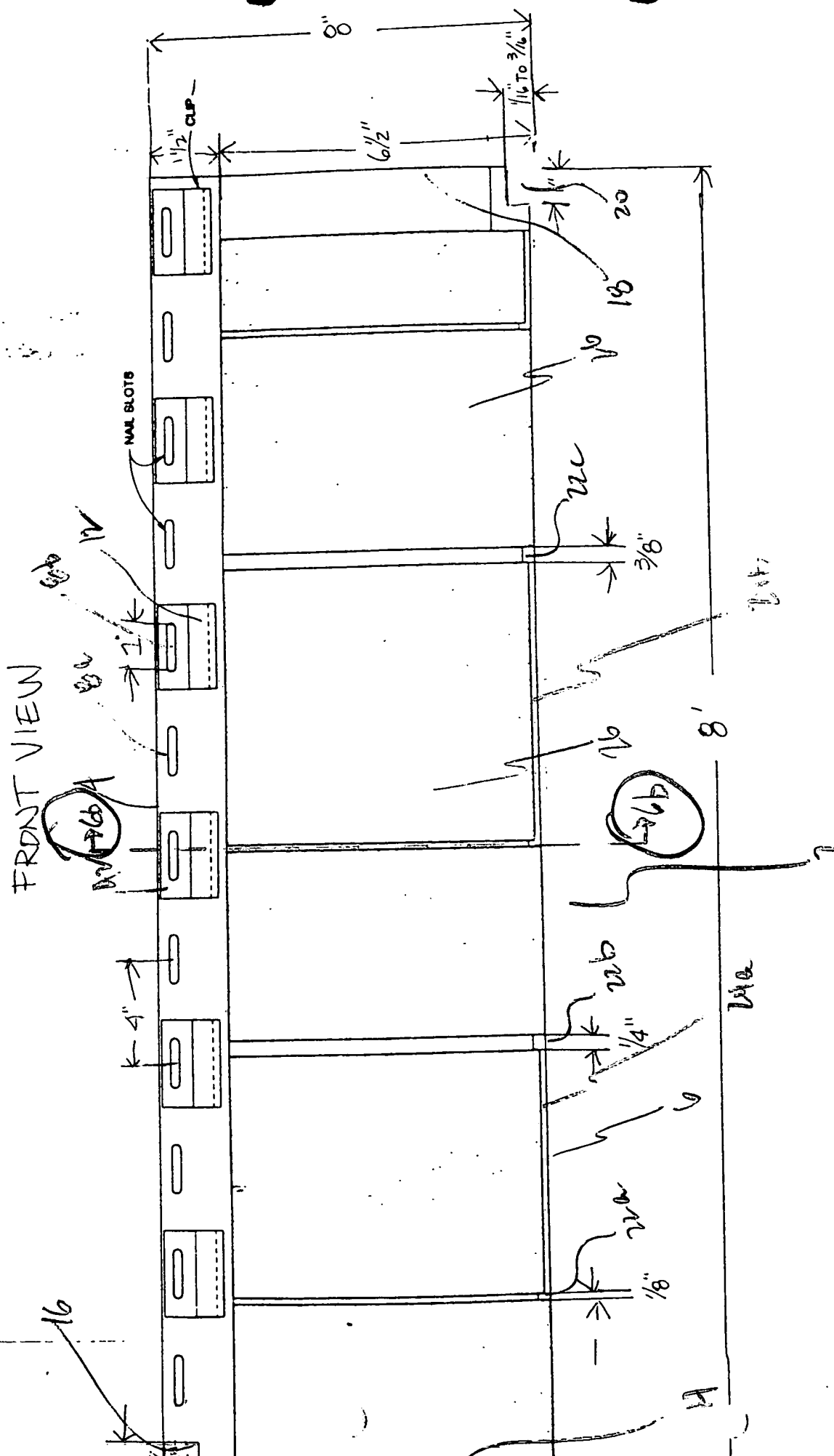
Amendments to the Drawings

FIG. 1

FRONT VIEW



FRONT VIEW



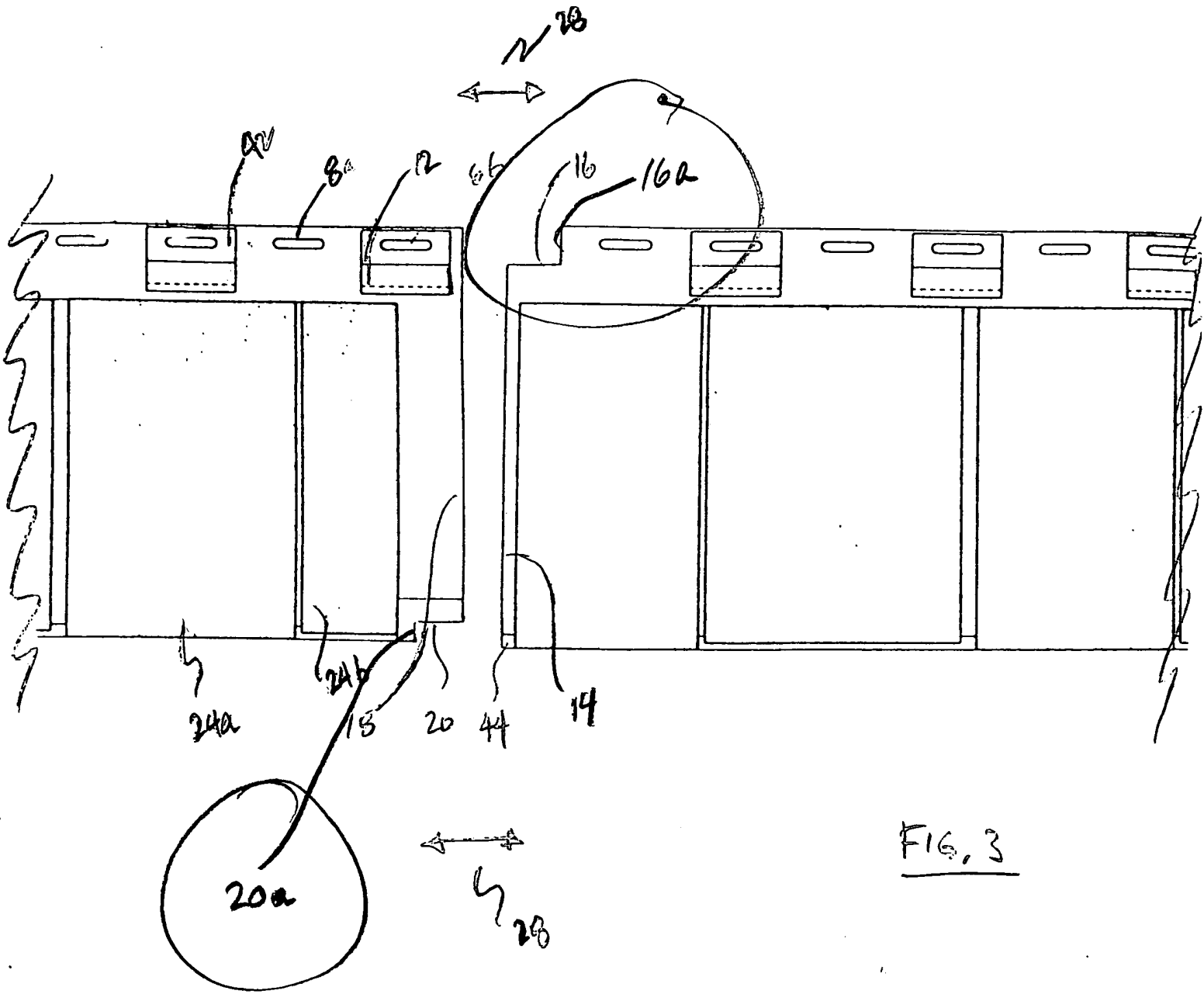
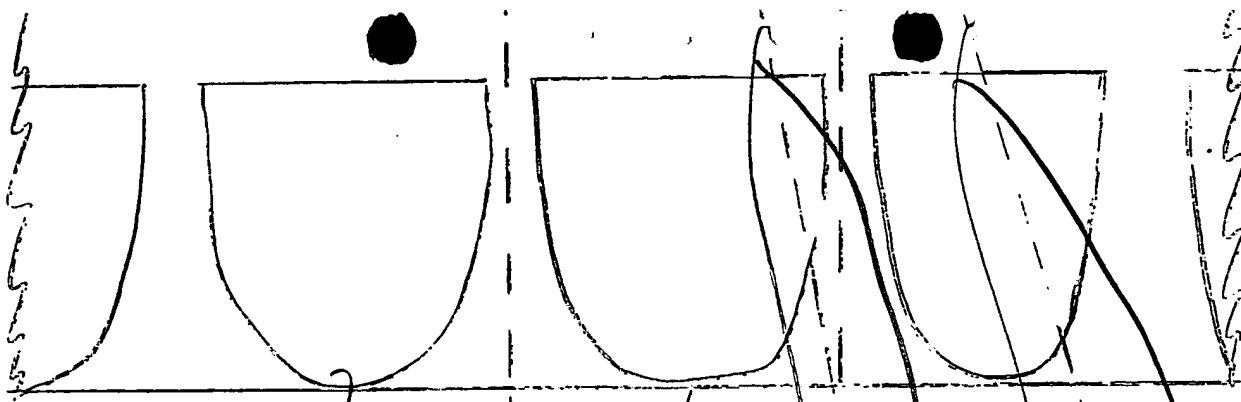


FIG. 3

FIG. 4A



2

10

6

B

4

32a

30

D

34

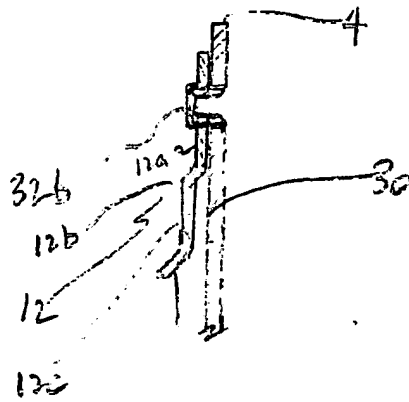


FIG. 4D

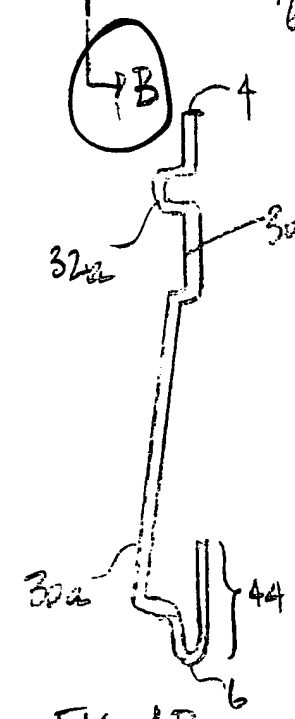


FIG. 4B

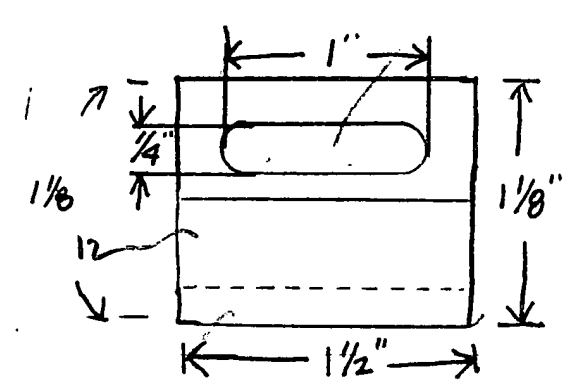
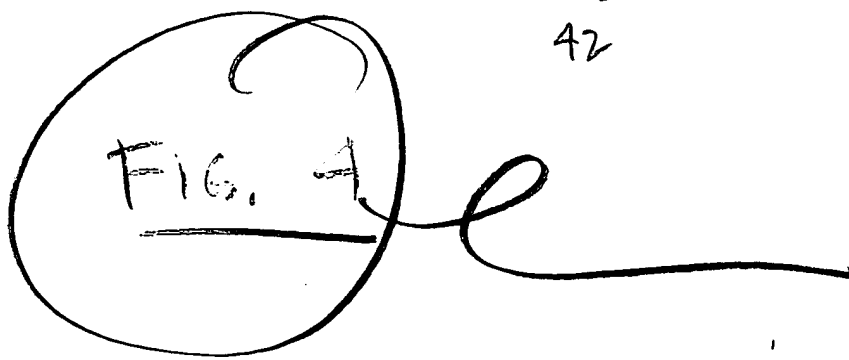


FIG. 4C

42



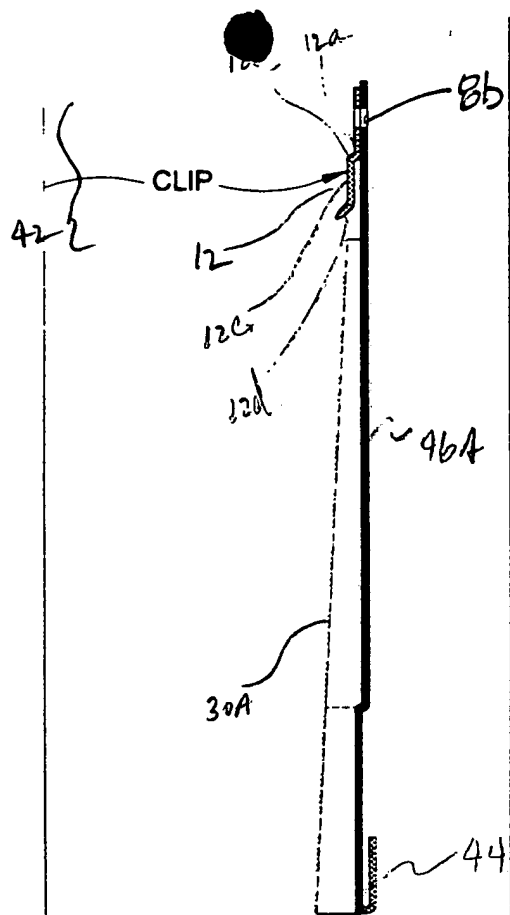


FIG. 6A

DECORATIVE PANEL

SECTION

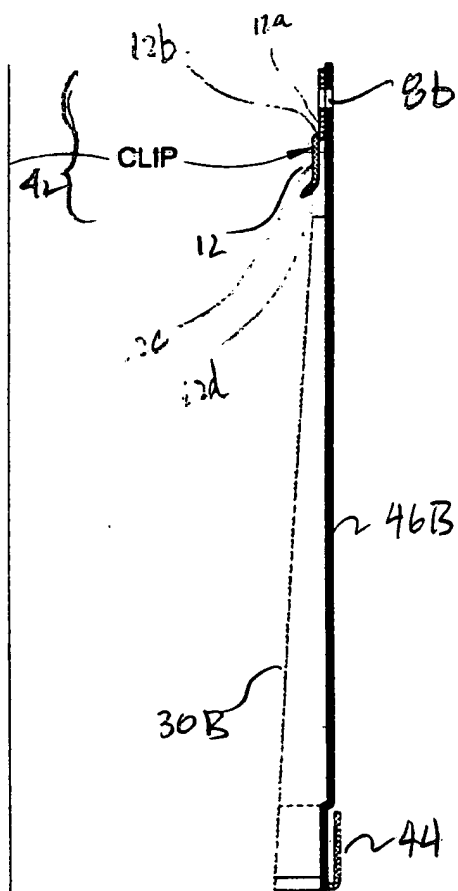


FIG. 6B

SHAKE PANEL

SECTION

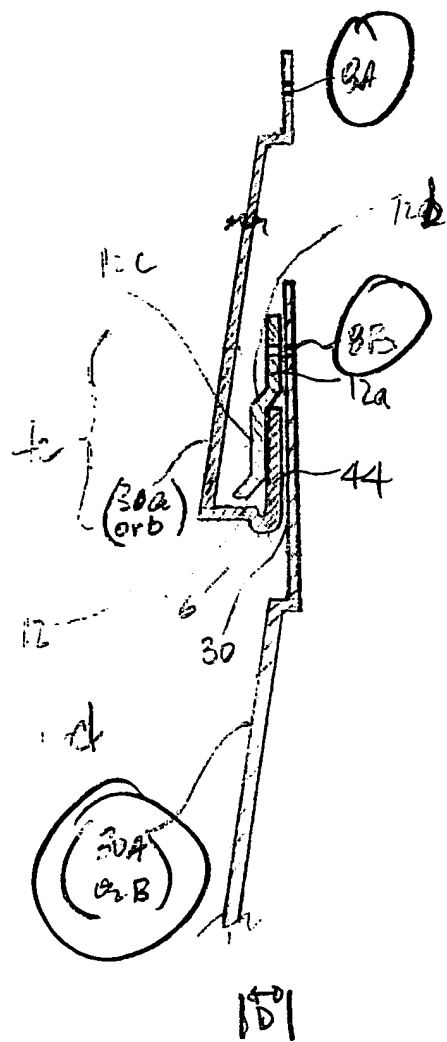


FIG. 7